



# Journal of the Senate

State of Indiana

114th General Assembly

First Regular Session

Forty-first Meeting Day

Wednesday Afternoon

April 6, 2005

The Senate convened at 1:36 p.m., with the President Pro Tempore of the Senate, Robert D. Garton, in the Chair.

Prayer was offered by Senator Patricia L. Miller.

The Pledge of Allegiance to the Flag was led by Senator Miller.

The Chair ordered the roll of the Senate to be called. Those present were:

Alting	Long
Antich-Carr	Lubbers
Bowser <input type="checkbox"/>	Lutz
Bray	Meeks
Breaux	Merritt
Broden	Miller
Clark	Mishler
Craycraft	Mrvan
Dillon	Nugent
Drozda	Paul
Ford	Riegsecker
Gard	Rogers
Garton	Server
Harrison	Simpson
Heinold	Sipes
Hershman	Skinner
Howard	Smith
Hume	Steele
Jackman	Waltz
Kenley	Waterman
Kruse	Weatherwax
Lanane	Wyss
Landske	Young, M.
Lawson	Young, R.
Lewis	Zakas

Roll Call 354: present 49; excused 1. [Note: A ☐ indicates those who were excused.] The Chair announced a quorum present. Pursuant to Senate Rule 5(d), no motion having been heard, the Journal of the previous day was considered read.

## SENATE MOTION

Madam President: I move that the Motion to Concur on Engrossed Senate Bill 433, filed March 31, 2005, be withdrawn from further consideration by the Senate.

LUBBERS

Motion prevailed.

## REPORT OF THE SENATE COMMITTEE ON ETHICS

Madam President: Pursuant to Senate Rule 94, the Senate

Committee on Ethics met on April 5, 2005, to render an advisory opinion with regard to the question raised by Senator Clark about his participation in the upcoming vote on Engrossed House Bill 1063, which is eligible for third reading, due to a potential conflict of interest.

The Senate Committee on Ethics has considered the facts presented by Senator Clark and hereby recommends that Senator Clark be excused from participation in the vote on third reading for Engrossed House Bill 1063 because of his potential conflict of interest with regard to the legislation. The vote of the Committee was 4-0.

ZAKAS, Chair

Report adopted.

1:46 p.m.

The Chair declared a recess until the fall of the gavel.

## Recess

The Senate reconvened at 2:16 p.m., with Senator Garton in the Chair.

## RESOLUTIONS ON FIRST READING

### House Concurrent Resolution 40

House Concurrent Resolution 40, sponsored by Senator Lawson:

A CONCURRENT RESOLUTION recognizing the March of Dimes.

*Whereas, The mission of the March of Dimes, a national nonprofit organization, is to bring us closer to the day when all babies will be born healthy;*

*Whereas, President Franklin Delano Roosevelt established the March of Dimes in 1938 to fight polio, with the first research grant going to Yale University that same year;*

*Whereas, Over its 67-year history, the March of Dimes has saved millions of babies from death or disability, including many babies born in Indiana;*

*Whereas, One out of every eight babies are born prematurely in Indiana;*

*Whereas, The nation's hopes for ensuring that the children of the future generations get a healthy start in life depend upon accurate and timely identification and monitoring of birth problems; and*

*Whereas, The March of Dimes has been a pioneer in preventing birth defects through programs of research, community services, education, and advocacy: Therefore,*

*Be it resolved by the House of Representatives of the General Assembly of the State of Indiana, the Senate concurring:*

SECTION 1. That the Indiana General Assembly proclaims support for the March of Dimes organization and urges all residents of Indiana to support the vital efforts of the March of Dimes through its Walk America Fundraiser and in its fight to have all babies born healthy.

SECTION 2. That the Principal Clerk of the House of Representatives transmit a copy of this resolution to the local March of Dimes chapter.

The resolution was read in full and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution.

2:20 p.m.

The Chair declared a recess until the fall of the gavel.

#### **Recess**

The Senate reconvened at 3:54 p.m., with Senator Garton in the Chair.

### **RESOLUTIONS ON FIRST READING**

#### **Senate Resolution 24**

Senate Resolution 24, introduced by Senator Kruse:

A SENATE RESOLUTION to recognize F. Mayo Sanders for his 50 years of service in the field of education.

*Whereas, In 1955, F. Mayo Sanders began his career in education as an elementary teacher and principal in Washington, Missouri;*

*Whereas, Upon accepting an offer to serve as an Assistant Elementary Principal and 6th grade teacher, Mr. Sanders relocated to Fremont, Indiana, in 1959. Then, in 1963, he became the Principal at Fremont Elementary School;*

*Whereas, In addition to his service to Fremont Elementary School, Mr. Sanders was also responsible for creating the Head Start Program in Steuben County, becoming its director in 1965;*

*Whereas, As the Head Start Program's success grew, it was expanded to serve LaGrange County in 1990. Due to the duties of director demanding more of his time, Mr. Sanders retired from his position at Fremont Elementary School in 1992;*

*Whereas, On June 30th, 2005, F. Mayo Sanders will retire as Director of Vistula Head Start after 40 years of service at Head Start and 50 years of service in the field of education; and*

*Whereas, With the loving support of his wife, Sue, and his son, Christopher, F. Mayo Sanders has left an indelible mark on the education of the youth of Steuben and LaGrange Counties: Therefore,*

*Be it resolved by the Senate of the General Assembly of the State of Indiana:*

SECTION 1. That the Indiana State Senate expresses its appreciation for the many years of service F. Mayo Sanders has dedicated to the Indiana educational system and congratulates him on his retirement.

SECTION 2. The Secretary of the Senate is hereby directed to transmit a copy of this Resolution to F. Mayo Sanders.

The resolution was read in full and adopted by voice vote.

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed House Concurrent Resolution 40 and the same is herewith transmitted for further action.

M. CAROLINE SPOTTS  
Principal Clerk of the House

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bill 293 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

#### **MESSAGE FROM THE HOUSE**

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 200, 201, 223, 224, 233, 244, 253, 279, 308, 322, 363, and 217 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

### **ENGROSSED HOUSE BILLS ON THIRD READING**

#### **Engrossed House Bill 1217**

Senator Clark called up Engrossed House Bill 1217 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 355: yeas 45, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1263**

Senator Long called up Engrossed House Bill 1263 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 356: yeas 46, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1315**

Senator Lewis called up Engrossed House Bill 1315 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning motor vehicles.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 357: yeas 46, nays 2. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1320**

Senator Miller called up Engrossed House Bill 1320 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 358: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1346**

Senator Harrison called up Engrossed House Bill 1346 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning pensions.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 359: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act?

There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1402**

Senator Waterman called up Engrossed House Bill 1402 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 360: yeas 36, nays 13. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1403**

Senator Paul called up Engrossed House Bill 1403 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 361: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

Senator Garton yielded the gavel to Senator Hershman.

#### **Engrossed House Bill 1590**

Senator Long called up Engrossed House Bill 1590 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 362: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1611**

Senator Merritt called up Engrossed House Bill 1611 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 363: yeas 47, nays 2. The bill was declared passed. The

question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### Engrossed House Bill 1662

Senator Miller called up Engrossed House Bill 1662 for third reading:

A BILL FOR AN ACT concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 364: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### Engrossed House Bill 1822

Senator Lanane called up Engrossed House Bill 1822 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 365: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

## RESOLUTIONS ON SECOND READING

### Senate Concurrent Resolution 54

Senator Heinold called up Senate Concurrent Resolution 54 for second reading. The resolution was read a second time by title and adopted by voice vote. The Chair instructed the Secretary to inform the House of the passage of the resolution. House sponsors: Representatives Walorski and Heim.

## MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 433 and that a conference committee be appointed to confer with a like committee of the House.

LUBBERS

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 139 and that a conference committee be appointed to confer with a like committee

of the House.

MEEKS

Motion prevailed.

Senator Hershman yielded the gavel to Senator Garton.

## ENGROSSED HOUSE BILLS ON SECOND READING

### Engrossed House Bill 1113

Senator Lawson called up Engrossed House Bill 1113 for second reading. The bill was read a second time by title.

### SENATE MOTION (Amendment 1113-4)

Madam President: I move that Engrossed House Bill 1113 be amended to read as follows:

Page 2, line 4, reset in italics "insurance adjustment".

Page 2, line 4, delete "administration".

Page 2, between lines 6 and 7, begin a new line block indented and insert:

"(12) A court administration fee under IC 33-37-5-27".

Page 2, line 30, delete "judicial" and insert "court".

Page 2, line 31, delete "IC 33-37-5-25" and insert "IC 33-37-5-27".

Page 3, line 29, reset in italics "insurance adjustment".

Page 3, line 29, delete "administration".

Page 3, between lines 31 and 32, begin a new line block indented and insert:

"(18) A court administration fee (IC 33-37-5-27)".

Page 5, line 12, reset in italics "insurance adjustment".

Page 5, line 12, delete "administration".

Page 5, between lines 14 and 15, begin a new line block indented and insert:

"(14) A court administration fee (IC 33-37-5-27)".

Page 6, line 31, reset in italics "insurance adjustment".

Page 6, line 31, delete "administration".

Page 6, between lines 33 and 34, begin a new line block indented and insert:

"(12) A court administration fee (IC 33-37-5-27)".

Page 7, line 26, reset in italics "insurance adjustment".

Page 7, line 26, delete "administration".

Page 7, between lines 28 and 29, begin a new line block indented and insert:

"(8) A court administration fee (IC 33-37-5-27)."

(9) A service fee (IC 33-37-5-28)."

Page 7, line 33, strike "from the party filing the action both of".

Page 7, strike lines 35 through 37, begin a new line block indented and insert:

"(1) From the party filing the action:

(A) a small claims costs fee of thirty-five dollars (\$35);  
and

(B) a small claims service fee of ten dollars (\$10) for each named defendant.

(2) From any party adding a defendant, a small claims service fee of ten dollars (\$10) for each defendant added in the action."

Page 8, line 8, reset in italics "insurance adjustment".

Page 8, line 8, delete "administration".

Page 8, between lines 10 and 11, begin a new line block indented and insert:

**"(7) A court administration fee (IC 33-37-5-27)."**

Page 8, line 31, reset in italics "insurance adjustment".

Page 8, line 31, delete "administration".

Page 8, between lines 33 and 34, begin a new line block indented and insert:

**"(7) A court administration fee (IC 33-37-5-27)."**

Page 9, delete lines 26 through 42.

Page 12, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 13. IC 33-37-5-27 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 27. (a) This subsection does not apply to the following:**

**(1) A criminal proceeding.**

**(2) A proceeding to enforce a statute defining an infraction.**

**(3) A proceeding for an ordinance violation.**

**In each action filed in a court described in IC 33-37-1-1 and in each small claims action in a court described in IC 33-34, the clerk shall collect a court administration fee of two dollars (\$2).**

**(b) In each action in which a person is:**

**(1) convicted of an offense;**

**(2) required to pay a pretrial diversion fee;**

**(3) found to have committed an infraction; or**

**(4) found to have violated an ordinance;**

**the clerk shall collect a court administration fee of two dollars (\$2).**

SECTION 14. IC 33-37-5-28 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 28. (a) Except as provided in subsection (c), this section applies to a civil action in which the clerk is required to collect a civil costs fee under IC 33-37-4-4(a).**

**(b) The clerk shall collect the following:**

**(1) From the party filing the civil action, a service fee of ten dollars (\$10) for each additional defendant named other than the first named defendant.**

**(2) From any party adding a defendant, a service fee of ten dollars (\$10) for each defendant added in the civil action.**

**(c) This section does not apply to an action in which service is made by publication in accordance with Indiana Trial Rule 4.13."**

Page 12, line 15, strike "IC 33-37-4-6(a)(1)" and insert **"IC 33-37-4-6(a)(1)(A)".**

Page 14, line 2, after "under" insert **"IC 33-37-4-6(a)(1)(B) or".**

Page 14, line 8, reset in italics "judicial branch insurance".

Page 14, line 9, reset in italics "adjustment account established by IC 33-38-5-8.2".

Page 14, line 9, delete "state general fund".

Page 14, line 10, reset in italics "insurance adjustment".

Page 14, line 11, delete "administration".

Page 14, between lines 17 and 18, begin a new line block indented and insert:

**"(3) IC 33-37-5-27 (court administration fees)."**

Page 14, line 18, delete "(3)" and insert **"(4)".**

Page 14, between lines 18 and 19, begin a new paragraph and insert:

**"(1) The proceeds of the service fee collected under IC 33-37-5-28 shall be distributed as follows:**

**(1) The clerk shall distribute one hundred percent (100%) of the service fees collected in a circuit, superior, county, or probate court to the county auditor for deposit in the county general fund.**

**(2) The clerk shall distribute one hundred percent (100%) of the service fees collected in a city or town court to the city or town fiscal officer for deposit in the city or town general fund."**

Page 14, line 29, strike "IC 33-37-4-6(a)(1)" and insert **"IC 33-37-4-6(a)(1)(A)".**

Page 14, line 37, strike "IC 33-37-4-6(a)(1)" and insert **"IC 33-37-4-6(a)(1)(A)".**

Page 15, line 3, strike "IC 33-37-4-6(a)(1)" and insert **"IC 33-37-4-6(a)(1)(A)".**

Page 15, line 42, reset in italics "judicial branch".

Page 16, line 1, reset in italics "insurance adjustment account established by IC 33-38-5-8.2".

Page 16, line 1, delete "state".

Page 16, line 2, delete "general fund".

Page 16, line 2, reset in italics "insurance".

Page 16, line 3, reset in italics "adjustment".

Page 16, line 3, delete "administration".

Page 16, between lines 15 and 16, begin a new line block indented and insert:

**"(2) IC 33-37-5-27 (court administration fees)."**

Page 16, line 16, delete "(2)" and insert **"(3)".**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1113 as printed April 1, 2005.)

LAWSON

Motion prevailed.

SENATE MOTION  
(Amendment 1113-10)

Madam President: I move that Engrossed House Bill 1113 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

**"SECTION 1. IC 10-13-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 9.5. (a) The DNA sample processing fund is established for the purpose of funding the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under this chapter. The fund shall be administered by the superintendent.****

**(b) The expenses of administering the fund shall be paid from money in the fund.**

**(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.**

**(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund."**

Page 3, between lines 31 and 32, begin a new line block indented and insert:

**"(18) A DNA sample processing fee (IC 33-37-5-26.2)."**

Page 5, between lines 14 and 15, begin a new line block indented and insert:

**"(14) A DNA sample processing fee (IC 33-37-5-26.2)."**

Page 6, between lines 33 and 34, begin a new line block indented and insert:

**"(12) A DNA sample processing fee (IC 33-37-5-26.2)."**

Page 12, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 14. IC 33-37-5-26.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 26.2. In each action in which a person is:**

- (1) convicted of an offense;**
- (2) required to pay a pretrial diversion fee;**
- (3) found to have committed an infraction; or**
- (4) found to have violated an ordinance;**

**the clerk shall collect a DNA sample processing fee of one dollar (\$1)."**

Page 12, reset in roman line 17.

Page 14, line 15, delete "fees collected under the following:" and insert **"fees collected under IC 33-37-5-26.2 (DNA sample processing fees)."**

Page 14, delete lines 16 through 18.

Page 14, reset in roman line 30.

Page 14, reset in roman line 38.

Page 15, reset in roman line 4.

Page 16, line 13, after "under" delete "the" and insert **"IC 33-37-5-26.2 (DNA sample processing fees)."**

Page 16, delete lines 14 through 16, begin a new paragraph and insert:

"SECTION 17. IC 33-37-7-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state ~~six seven million seven hundred four~~ **thirty-nine** thousand two hundred fifty-seven dollars (~~\$6,704,257~~) (**\$7,039,257**) for distribution under subsection (b).

(b) On June 30 and on December 31 of each year the treasurer of state shall deposit into:

- (1) the family violence and victim assistance fund established by IC 12-18-5-2 an amount equal to ~~eleven ten and eight-hundredths~~ **fifty-six hundredths** percent (~~11.08%~~) (**10.56%**);
- (2) the Indiana judges' retirement fund established by IC 33-38-6-12 an amount equal to ~~twenty-five twenty-four and twenty-one two~~ **hundredths** percent (~~25.21%~~) (**24.02%**);
- (3) the law enforcement academy building fund established by IC 5-2-1-13 an amount equal to three and ~~fifty-two thirty-six~~ **hundredths** percent (~~3.52%~~) (**3.36%**);
- (4) the law enforcement training fund established by IC 5-2-1-13 an amount equal to ~~fourteen thirteen and nineteen-hundredths~~ **fifty-two hundredths** percent (~~14.19%~~) (**13.52%**);
- (5) the violent crime victims compensation fund established by IC 5-2-6.1-40 an amount equal to ~~sixteen fifteen and~~

~~fifty-hundredths~~ **seventy-two hundredths** percent (~~16.50%~~) (**15.72%**);

(6) the motor vehicle highway account an amount equal to ~~twenty-six twenty-five and ninety-five sixty-seven~~ **hundredths** percent (~~26.95%~~) (**25.67%**);

(7) the fish and wildlife fund established by IC 14-22-3-2 an amount equal to ~~thirty-two hundredths~~ **thirty-one hundredths** of one percent (~~0.32%~~) (**0.31%**); and

(8) the Indiana judicial center drug and alcohol programs fund established by IC 12-23-14-17 for the administration, certification, and support of alcohol and drug services programs under IC 12-23-14 an amount equal to two and ~~twenty-three thirteen~~ **hundredths** percent (~~2.23%~~) (**2.13%**); and

(9) the DNA sample processing fund established under IC 10-13-6-9.5 for the funding of the collection, shipment, analysis, and preservation of DNA samples and the conduct of a DNA data base program under IC 10-13-6 an amount equal to four and seventy-one hundredths percent (**4.71%**);

of the amount transferred by the auditor of state under subsection (a).

(c) On June 30 and on December 31 of each year, the auditor of state shall transfer to the treasurer of state for deposit into the public defense fund established under IC 33-40-6-1:

- (1) after June 30, 2004, and before July 1, 2005, one million seven hundred thousand dollars (\$1,700,000); and
- (2) after June 30, 2005, two million two hundred thousand dollars (\$2,200,000).

SECTION 18. IC 33-37-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 3(b) of this chapter, the fiscal body of the city or town shall appropriate from the city or town fund to the program the amount collected for the program fee under IC 33-37-5.

**(b) Funds derived from a deferral program or a pretrial diversion program may be used only for the following purposes:**

- (1) Personnel expenses related to the operation of the program.**
- (2) Special training for:**
  - (A) a prosecuting attorney;**
  - (B) a deputy prosecuting attorney;**
  - (C) support staff for a prosecuting attorney or deputy prosecuting attorney; or**
  - (D) a law enforcement officer.**
- (3) Employment of a deputy prosecutor or prosecutorial support staff.**
- (4) Victim assistance.**
- (5) Electronic legal research.**
- (6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.**
- (7) Expenses of a criminal investigation and prosecution.**
- (8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:**
  - (A) substance abuse;**
  - (B) child abuse;**

- (C) domestic violence;
- (D) operating while intoxicated; and
- (E) juvenile delinquency.

(9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 19. IC 33-37-8-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) Upon receipt of monthly claims submitted on oath to the fiscal body by a program listed in section 5(b) of this chapter, the county fiscal body shall appropriate from the county fund to the program or fund the amount collected for the program under IC 33-37-5.

(b) Funds derived from a deferral program or a pretrial diversion program may be used only for the following purposes:

- (1) Personnel expenses related to the operation of the program.
- (2) Special training for:
  - (A) a prosecuting attorney;
  - (B) a deputy prosecuting attorney;
  - (C) support staff for a prosecuting attorney or deputy prosecuting attorney; or
  - (D) a law enforcement officer.
- (3) Employment of a deputy prosecutor or prosecutorial support staff.
- (4) Victim assistance.
- (5) Electronic legal research.
- (6) Office equipment, including computers, computer software, communication devices, office machinery, furnishings, and office supplies.
- (7) Expenses of a criminal investigation and prosecution.
- (8) An activity or program operated by the prosecuting attorney that is intended to reduce or prevent criminal activity, including:
  - (A) substance abuse;
  - (B) child abuse;
  - (C) domestic violence;
  - (D) operating while intoxicated; and
  - (E) juvenile delinquency.
- (9) Any other purpose that benefits the office of the prosecuting attorney or law enforcement and that is agreed upon by the county fiscal body and the prosecuting attorney.

(c) Funds described in subsection (b) may be used only in accordance with guidelines adopted by the prosecuting attorneys council under IC 33-39-8-5.

SECTION 20. IC 33-39-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) After June 30, 2005, this section does not apply to a person who:

- (1) holds a commercial driver's license; and
- (2) has been charged with an offense involving the operation of a motor vehicle in accordance with the federal Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106-159.113 Stat. 1748).

(b) This section does not apply to a person arrested for or

charged with:

- (1) an offense under IC 9-30-5-1 through IC 9-30-5-5; or
- (2) if a person was arrested or charged with an offense under IC 9-30-5-1 through IC 9-30-5-5, an offense involving:

- (A) intoxication; or
- (B) the operation of a motor vehicle;

if the offense involving intoxication or the operation of a motor vehicle was part of the same episode of criminal conduct as the offense under IC 9-30-5-1 through IC 9-30-5-5.

(b)(c) A prosecuting attorney may withhold prosecution against an accused person if:

- (1) the person is charged with a misdemeanor;
- (2) the person agrees to conditions of a pretrial diversion program offered by the prosecuting attorney; ~~and~~
- (3) the terms of the agreement are recorded in an instrument signed by the person and the prosecuting attorney and filed in the court in which the charge is pending; ~~and~~
- (4) the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council.

(c)(d) An agreement under subsection (b)(c) may include conditions that the person:

- (1) pay to the clerk of the court an initial user's fee and monthly user's fees in the amounts specified in IC 33-37-4-1;
- (2) work faithfully at a suitable employment or faithfully pursue a course of study or vocational training that will equip the person for suitable employment;
- (3) undergo available medical treatment or counseling and remain in a specified facility required for that purpose;
- (4) support the person's dependents and meet other family responsibilities;
- (5) make restitution or reparation to the victim of the crime for the damage or injury that was sustained;
- (6) refrain from harassing, intimidating, threatening, or having any direct or indirect contact with the victim or a witness;
- (7) report to the prosecuting attorney at reasonable times;
- (8) answer all reasonable inquiries by the prosecuting attorney and promptly notify the prosecuting attorney of any change in address or employment; and
- (9) participate in dispute resolution either under IC 34-57-3 or a program established by the prosecuting attorney.

(d)(e) An agreement under subsection (b)(2)(c)(2) may include other provisions reasonably related to the defendant's rehabilitation, if approved by the court.

(e)(f) The prosecuting attorney shall notify the victim when prosecution is withheld under this section.

(f)(g) All money collected by the clerk as user's fees under this section shall be deposited in the appropriate user fee fund under IC 33-37-8.

(g)(h) If a court withholds prosecution under this section and the terms of the agreement contain conditions described in subsection (c)(6)(d)(6):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court

administration with the clerk.

SECTION 21. IC 33-39-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The council shall do the following:

- (1) Assist in the coordination of the duties of the prosecuting attorneys of the state and their staffs.
- (2) Prepare manuals of procedure.
- (3) Give assistance in preparation of the trial briefs, forms, and instructions.
- (4) Conduct research and studies that would be of interest and value to all prosecuting attorneys and their staffs.
- (5) Maintain liaison contact with study commissions and agencies of all branches of local, state, and federal government that will be of benefit to law enforcement and the fair administration of justice in Indiana.

**(6) Adopt guidelines for the expenditure of funds derived from a deferral program or a pretrial diversion program."**

Page 17, line 11, after "(f)" insert **"This subsection does not apply to an offense or violation under IC 9-24-6 involving the operation of a commercial motor vehicle."**

Page 17, line 28, strike "and".

Page 17, line 30, delete "." and insert "; and

**(6) if the deferral program is offered by the prosecuting attorney, the prosecuting attorney electronically transmits information required by the prosecuting attorneys council concerning the withheld prosecution to the prosecuting attorneys council, in a manner and format designated by the prosecuting attorneys council."**

Page 17, after line 37, begin a new paragraph and insert:

**"SECTION 24. [EFFECTIVE JULY 1, 2005] Notwithstanding IC 33-39-1-8 and IC 34-28-5-1, both as amended by this act, a prosecuting attorney is not required to electronically transmit information to the prosecuting attorneys council under IC 33-39-1-8 when withholding prosecution or under IC 34-28-5-1 when deferring action until January 1, 2006."**

Renumber all SECTIONS consecutively.

(Reference is to EHB 1113 as printed April 1, 2005.)

LONG

Motion prevailed. The bill was ordered engrossed.

## Engrossed House Bill 1120

Senator Kenley called up Engrossed House Bill 1120 for second reading. The bill was read a second time by title.

### SENATE MOTION (Amendment 1120-4)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 9, line 33, delete "issued by the" and insert **"with"**.

Page 9, delete line 34.

Page 9, line 35, delete "adopted" and insert **"determined"**.

Page 27, line 9, delete "portion" and insert **"part"**.

Page 29, line 29, delete "(in" and insert **"(if"**.

Page 62, line 41, delete "other than real property that is".

Page 62, line 42, delete "corporate property in an adopting county,".

Page 62, line 42, strike "for a stated".

Page 63, line 1, strike "assessment year." and insert **"other than real property that is corporate property in a county that is funding annual controlled tax increases for the year from county income taxes."**

Page 63, line 10, delete "in an adopting county".

Page 63, line 11, delete "for a stated assessment year." and insert **"in a county that is funding annual controlled tax increases for the year from county income taxes."**

Page 63, line 26, delete "in an adopting county".

Page 63, line 27, delete "." and insert **"in a county that is funding annual controlled tax increases for the year from county income taxes."**

Page 63, line 36, delete "in an adopting county".

Page 63, line 37, delete "for a stated assessment year." and insert **"in a county that is funding annual controlled tax increases for the year from county income taxes."**

Page 64, delete lines 1 through 5.

Page 64, line 6, delete "(p)" and insert **"(o)"**.

Page 83, line 24, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.

Page 86, between lines 1 and 2 begin a new paragraph and insert:

**"SECTION 57. IC 6-8.1-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. "Listed taxes" or "taxes" includes only the pari-mutuel taxes (IC 4-31-9-3 through IC 4-31-9-5); the river boat admissions tax (IC 4-33-12); the river boat wagering tax (IC 4-33-13); the gross income tax (IC 6-2.1) (repealed); the utility receipts ~~tax~~ and utility services use taxes (IC 6-2.3); the state gross retail and use taxes (IC 6-2.5); the adjusted gross income tax (IC 6-3); the supplemental net income tax (IC 6-3-8) (repealed); the county adjusted gross income tax (IC 6-3.5-1.1) (repealed); the county option income tax (IC 6-3.5-6) (repealed); the county economic development income tax (IC 6-3.5-7) (repealed); the municipal option income tax (IC 6-3.5-8) (repealed); the auto rental excise tax (IC 6-6-9); the financial institutions tax (IC 6-5.5); the gasoline tax (IC 6-6-1.1); the alternative fuel permit fee (IC 6-6-2.1); the special fuel tax (IC 6-6-2.5); the motor carrier fuel tax (IC 6-6-4.1); a motor fuel tax collected under a reciprocal agreement under IC 6-8.1-3; the motor vehicle excise tax (IC 6-6-5); the commercial vehicle excise tax (IC 6-6-5.5); the hazardous waste disposal tax (IC 6-6-6.6); the cigarette tax (IC 6-7-1); **the county income tax (IC 6-11)**; the beer excise tax (IC 7.1-4-2); the liquor excise tax (IC 7.1-4-3); the wine excise tax (IC 7.1-4-4); the hard cider excise tax (IC 7.1-4-4.5); the malt excise tax (IC 7.1-4-5); the petroleum severance tax (IC 6-8-1); the various innkeeper's taxes (IC 6-9); the various ~~county~~ food and beverage taxes (IC 6-9); the county admissions tax (IC 6-9-13 and IC 6-9-28); the oil inspection fee (IC 16-44-2); the emergency and hazardous chemical inventory form fee (IC 6-6-10); the penalties assessed for oversize vehicles (IC 9-20-3 and IC 9-30); the fees and penalties assessed for overweight vehicles (IC 9-20-4 and IC 9-30); the underground storage tank fee (IC 13-23); the solid waste management fee (IC 13-20-22); and any other tax or fee that the department is required to collect or administer."**

Page 86, line 9, strike "and".

Page 87, line 11, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.



Page 88, line 7, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.

Page 89, line 27, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.

Page 90, line 25, delete "IC 5-1-17-26(b)." and insert **"IC 5-1-17-26."**

Page 91, line 4, after "3" insert ".".

Page 91, line 10, delete "no" and insert **"not"**.

Page 91, line 17, delete "no" and insert **"not"**.

Page 91, line 31, after "For" delete "the".

Page 92, line 8, delete "July 31, 2005." and insert **"the last day of the month that succeeds the month in which the ordinance was adopted."**

Page 92, delete line 38, begin a new paragraph and insert:

**"Sec. 11. The county fiscal body may adopt an ordinance requiring that the tax imposed under this chapter be reported on forms approved by the county treasurer and that the tax be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be"**

Page 93, line 3, delete "So" and insert **"As"**.

Page 93, line 7, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.

Page 93, line 9, after "the" insert **"county treasurer, if the tax is being paid to the county treasurer, to the treasurer of state. This amount plus fifty percent (50%) of the amounts received by the state from the taxes imposed under this chapter by counties shall be paid monthly by the"**

Page 93, line 11, after "state" insert ".".

Page 93, line 12, delete "and the" and insert **"The"**.

Page 93, line 12, after "remainder" insert **"that is received by the state"**.

Page 93, line 19, after "be" insert **"retained by the county treasurer or"**.

Page 94, delete lines 8 through 17, begin a new line block indented and insert:

**"(2) for any legal or corporate purpose of the county or political subdivision, including the pledge of money to bonds, leases, or other obligations under IC 5-1-14-4."**

Page 94, between lines 30 and 31, begin a new paragraph and insert:

**"(c) A tax imposed under this chapter terminates on January 1 of the year immediately following the year in which the last payment obligation of the capital improvement board is made with respect to any bond, lease, or other obligation described in section 12(a) of this chapter that existed on July 1, 2006."**

Page 103, line 42, delete "levy" and insert **"tax"**.

Page 104, line 5, delete "tax" and insert **"levy"**.

Page 104, line 31, after "taxes." insert **"Adoption of the ordinance does not increase the controlled levy limit of any political subdivision in the county."**

Page 105, line 34, delete "in proportion to the amount" and insert **"as provided in"**.

Page 105, line 35, delete "of".

Page 107, line 35, after "than" insert **"a school corporation or"**.

Page 108, line 42, after "than" insert **"a school corporation or"**.

Page 111, line 8, after "than" insert **"a school corporation or"**.  
Page 144, line 24, after "make" insert **"a"**.

Page 144, between lines 29 and 30, begin a new line blocked left and insert:

**"A political subdivision's controlled tax limit is increased by the amount and for the years that an increase is granted under this section."**

Page 208, delete lines 15 through 42.

Page 209, delete lines 1 through 3.

Page 211, delete lines 7 through 42.

Delete pages 212 through 213.

Page 214, delete lines 1 through 36.

Page 232, line 36, after "subdivision," insert **"(including the purpose of replacing revenue lost from granting in the ordinance or resolution an additional property tax replacement credit that exceeds the credits granted under any other law)"**.

Page 253, line 27, delete "IC 5-1-17-26(b)," and insert **"IC 5-1-17-26,"**.

Page 267 delete lines 33 through 42.

Page 268 delete lines 1 through 9.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1120 as printed April 4, 2005.)

KENLEY

Motion prevailed.

#### SENATE MOTION (Amendment 1120-18)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 76, between lines 37 and 38, begin a new paragraph and insert:

**"SECTION 41. IC 6-3.1-10-10 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)]: Sec. 10. (a) A taxpayer may assign any part of the credit to which the taxpayer is entitled under this chapter to another taxpayer if the following conditions are met:**

**(1) The credit was awarded before January 1, 2005.**

**(2) The credit was awarded for the taxpayer's qualified investment in a business located in a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).**

**(3) The fiscal body of the county described in subdivision (2) adopts an ordinance authorizing the use of county revenues to reimburse the state for the state revenues foregone by the application of the credit to the state tax liability of the assignee.**

**An assignment under this subsection must be in writing. A credit that is assigned under this subsection remains subject to this chapter.**

**(b) An assignment under subsection (a) must be reported on the state tax returns of the taxpayer and the assignee for the year in which the assignment is made in the manner prescribed by the department. The taxpayer may not receive value in connection with the assignment under subsection (a) that exceeds the value of the part of the credit assigned.**

**(c) A taxpayer that assigns a tax credit under this section shall contribute at least fourteen percent (14%) of the proceeds of the assignment to the urban enterprise association established for the enterprise zone in which the taxpayer is located.**

**(d) After making the contribution required under subsection (c), a taxpayer that assigns a tax credit under this section shall reinvest the remaining proceeds of the assignment in the taxpayer's enterprise zone operations."**

Page 86, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 6. IC 6-9-7-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) The county council may levy a tax on every person engaged in the business of renting or furnishing, for periods of less than thirty (30) days, any room or rooms, lodgings, or accommodations in any commercial hotel, motel, inn, university memorial union, university residence hall, tourist camp, or tourist cabin located in a county described in section 1 of this chapter. The county treasurer shall allocate and distribute the tax revenues as provided in ~~section~~ **sections 7 and 9** of this chapter.

(b) The tax may not exceed the rate of ~~five six percent (5%)~~ **(6%)** on the gross retail income derived from lodging income only and shall be in addition to the state gross retail tax imposed under IC 6-2.5.

(c) The tax does not apply to gross retail income received in a transaction in which:

- (1) a student rents lodgings in a university residence hall while that student participates in a course of study for which the student receives college credit from a state university located in the county; or
- (2) a person rents a room, lodging, or accommodations for a period of thirty (30) days or more.

(d) The county fiscal body may adopt an ordinance to require that the tax be reported on forms approved by the county treasurer and that the tax shall be paid monthly to the county treasurer. If such an ordinance is adopted, the tax shall be paid to the county treasurer not more than twenty (20) days after the end of the month the tax is collected. If such an ordinance is not adopted, the tax shall be imposed, paid, and collected in exactly the same manner as the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(e) All of the provisions of IC 6-2.5 relating to rights, duties, liabilities, procedures, penalties, definitions, exemptions, and administration shall be applicable to the imposition and administration of the tax imposed by this section, except to the extent those provisions are in conflict or inconsistent with the specific provisions of this chapter or the requirements of the county treasurer. If the tax is paid to the department of state revenue, the return to be filed for the payment of the tax under this section may be either a separate return or may be combined with the return filed for the payment of the state gross retail tax as the department of state revenue may, by rule, determine.

(f) If the tax is paid to the department of state revenue, the amounts received from the tax imposed under this section shall be paid quarterly by the treasurer of state to the county treasurer upon warrants issued by the auditor of state.

SECTION 7. IC 6-9-7-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The county

treasurer shall establish an innkeeper's tax fund. The treasurer shall deposit in that fund all money received under section 6 of this chapter **that is attributable to an innkeeper's tax rate that is not more than five percent (5%).**

(b) Money in the innkeeper's tax fund shall be expended in the following order:

(1) Through July 1999, not more than the revenue needed to service bonds issued under IC 36-10-3-40 through IC 36-10-3-45 and outstanding on January 1, 1993, may be used to service bonds. The county auditor shall make a semiannual distribution, at the same time property tax revenue is distributed, to a park and recreation district that has issued bonds payable from a county innkeeper's tax. Each semiannual distribution must be equal to one-half (1/2) of the annual principal and interest obligations on the bonds. Money received by a park and recreation district under this subdivision shall be deposited in a special fund to be used to service the bonds. During August 1999 the money that had been set aside to cover bond payments that remains after the bonds have been retired plus sixty percent (60%) of the tax revenue during August 1999 through December 1999 shall be distributed to the county treasurer to be used by the county park board, subject to appropriation by the county fiscal body.

(2) To the commission for its general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter. However, the amount that may be distributed under this subdivision during any particular year may not exceed the proceeds derived from an innkeeper's tax of two percent (2%) through December 1999 and fifty percent (50%) of the tax revenue beginning January 2000 and continuing through December 2014.

(3) For the period beginning July 1, 2002, through December 2014, fifty percent (50%) of the revenue to the county treasurer to be credited by the treasurer to a special account. The county treasurer shall distribute money in the special account as follows:

(A) Seventy-five percent (75%) of the money in the special account shall be distributed to the department of natural resources for the development of projects in the state park on the county's largest river, including its tributaries.

(B) Twenty-five percent (25%) of the money in the special account shall be distributed to a community development corporation that serves a metropolitan area in the county that includes:

- (i) a city having a population of more than fifty-five thousand (55,000) but less than fifty-nine thousand (59,000); and
- (ii) a city having a population of more than twenty-eight thousand seven hundred (28,700) but less than twenty-nine thousand (29,000);

for the community development corporation's use in tourism, recreation, and economic development activities. For the period beginning July 1, 2002, and continuing through December 2006, the community development corporation shall provide not less than forty percent (40%) of the money received from the special account under this clause as a grant to a nonprofit corporation that leases land in the state park described in this subdivision for the

nonprofit corporation's use in noncapital projects in the state park.

Money in the special account may not be used for any other purpose. The money credited to the account that has not been used as specified in this subdivision by January 1, 2015, shall be transferred to the commission to be used to make grants as provided in subsection (c)(2).

(c) Money in the innkeeper's tax fund subject to appropriation by the county council shall be allocated and distributed after December 2014 as follows:

(1) Fifty percent (50%) of the revenue to the commission for the commission's general use in paying operating expenses and to carry out the purposes set forth in section 3(a)(6) of this chapter.

(2) The remainder to the commission to be used solely to make grants for the development of recreation and tourism projects. The commission shall establish and make public the criteria that will be used in analyzing and awarding grants. At least ten percent (10%) but not more than fifteen percent (15%) of the grants may be awarded for noncapital projects. Grants may be made only to the following entities upon application by the executive of the entity:

(A) The county for deposit in a special account.

(B) The most populated city in the county for deposit in a special account.

(C) The second most populated city in the county for deposit in a special account.

(D) The Tippecanoe County Wabash River parkway commission, but only so long as the interlocal agreement among the political subdivisions listed in clauses (A) through (C) is in effect. Money received by the parkway commission shall be segregated in a special account.

(d) Money credited to special accounts under subsection (c)(2) shall be used only for recreation or tourism projects, or both.

SECTION 7. IC 6-9-7-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) If the county fiscal body adopts an ordinance to increase the county's innkeeper's tax rate to a rate that exceeds five percent (5%), the county treasurer shall establish a supplemental innkeeper's tax fund. The treasurer shall deposit in the fund all money received under section 6 of this chapter that is attributable to an innkeeper's tax rate that exceeds five percent (5%).

(b) Money in the fund may be used for any purpose that in the discretion of the county fiscal body promotes economic development in the county, including reimbursing the state in an amount equal to the amount of state revenue foregone by the application of a tax credit assigned under IC 6-3.1-10-10."

Page 268, between lines 9 and 10, begin a new paragraph and insert:

"SECTION 143. [EFFECTIVE JANUARY 1, 2005 (RETROACTIVE)] IC 6-3.1-10-10, as added by this act, applies to taxable years beginning after December 31, 2004.

SECTION 144. [EFFECTIVE JULY 1, 2005] (a) This SECTION applies to a county having a population of more than one hundred forty-eight thousand (148,000) but less than one hundred seventy thousand (170,000).

(b) The county fiscal body may adopt an ordinance authorizing the use of county revenues to reimburse the state in an amount equal to the amount of state revenue foregone by the application of a tax credit assigned under IC 6-3.1-10-10, as added by this act. The county fiscal body may use any source of revenue available to the county, including innkeeper's taxes deposited in the county's supplemental innkeeper's tax fund under IC 6-9-7-9, as added by this act, to carry out an ordinance adopted under this SECTION.

(c) The development of the enterprise zone in the county's largest city has been crucial to economic development in the city and the county. The continued development of the enterprise zone is enhanced by enabling a taxpayer to assign a tax credit awarded for investment in the enterprise zone. These special circumstances require legislation particular to the county.

(d) This SECTION expires January 1, 2008."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1120 as printed April 4, 2005.)

HERSHMAN

Motion prevailed.

SENATE MOTION  
(Amendment 1120-3)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 82, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 52. IC 6-6-9.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 9.5. Vanderburgh County Supplemental Auto Rental Excise Tax**

**Sec. 1. This chapter applies to Vanderburgh County.**

**Sec. 2. As used in this chapter, "department" refers to the department of state revenue.**

**Sec. 3. As used in this chapter, "gross retail income" has the meaning set forth in IC 6-2.5-1-5.**

**Sec. 4. As used in this chapter, "passenger motor vehicle" has the meaning set forth in IC 9-13-2-123(a).**

**Sec. 5. As used in this chapter, "person" has the meaning set forth in IC 6-2.5-1-3.**

**Sec. 6. As used in this chapter, "retail merchant" has the meaning set forth in IC 6-2.5-1-8.**

**Sec. 7. (a) The legislative body of the most populous city in the county may adopt an ordinance to impose an excise tax, known as the county supplemental auto rental excise tax, upon the rental of passenger motor vehicles in the county for periods of less than thirty (30) days. The ordinance must specify that the tax expires December 31, 2036.**

**(b) The county supplemental auto rental excise tax that may be imposed on the rental of a passenger motor vehicle is two percent (2%) of the gross retail income received by the retail merchant for the rental.**

**(c) If the city legislative body adopts an ordinance under subsection (a), the city legislative body shall immediately send a certified copy of the ordinance to the commissioner of the department.**

(d) If the city legislative body adopts an ordinance under subsection (a) before June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after June 30 of the year in which the ordinance is adopted. If the city legislative body adopts an ordinance under subsection (a) on or after June 1 of a year, the county supplemental auto rental excise tax applies to auto rentals after the last day of the month in which the ordinance is adopted.

Sec. 8. (a) The rental of a passenger motor vehicle by a funeral director licensed under IC 25-15 is exempt from the county supplemental auto rental excise tax if the rental is part of the services provided by the funeral director for a funeral.

(b) The temporary rental of a passenger motor vehicle is exempt from the county supplemental auto rental excise tax if the rental is:

- (1) made or reimbursed under a contract or agreement:
  - (A) between a provider and person;
  - (B) given for consideration over and above the lease or purchase price of a motor vehicle; and
  - (C) that undertakes to perform or provide repair or replacement service, or indemnification for that service, for the operational or structural failure of a motor vehicle due to a defect in materials or skill of work or normal wear and tear;
- (2) made or reimbursed under a contract for mechanical breakdown insurance;
- (3) made or reimbursed under a contract for automobile collision insurance or automobile comprehensive insurance that covers the temporary lease of a vehicle to the person after the person's vehicle is damaged or destroyed in a collision; or
- (4) otherwise provided to a person as a replacement vehicle:
  - (A) while the person's vehicle is repaired or serviced due to a defect in materials or skill of work, normal wear and tear, or other damage; or
  - (B) until the person permanently replaces a vehicle that has been destroyed.

Sec. 9. A person that rents a passenger motor vehicle is liable for the county supplemental auto rental excise tax. The person shall pay the tax to the retail merchant as a separate amount added to the consideration for the rental. The retail merchant shall collect the tax as an agent for the state.

Sec. 10. (a) Except as otherwise provided in this section, the county supplemental auto rental excise tax shall be imposed, paid, and collected in the same manner that the state gross retail tax is imposed, paid, and collected under IC 6-2.5.

(b) Each retail merchant filing a return for the county supplemental auto rental excise tax shall indicate in the return:

- (1) all locations in the county where the retail merchant collected county supplemental auto rental excise taxes; and
- (2) the amount of county supplemental auto rental excise taxes collected at each location.

(c) The return to be filed for the payment of the county supplemental auto rental excise tax may be:

- (1) a separate return;
- (2) combined with the return filed for the payment of the

auto rental excise tax under IC 6-6-9; or

(3) combined with the return filed for the payment of the state gross retail tax;

as prescribed by the department.

Sec. 11. The amounts received from the tax imposed under this chapter shall be paid monthly by the treasurer of state to the fiscal officer of the most populous city in the county upon warrants issued by the auditor of state.

Sec. 12. If a tax is imposed under section 7 of this chapter, the fiscal officer of the most populous city in the county shall deposit all amounts received under this chapter in the tourism capital improvement fund established under IC 6-9-2.5-7.5 to be used only for the purposes of the tourism capital improvement fund.

Sec. 13. This chapter expires January 1, 2036."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1120 as printed April 4, 2005.)

SERVER

Motion prevailed.

SENATE MOTION  
(Amendment 1120-5)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Delete pages 10 through 21.

Page 22, delete lines 1 through 24.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1120 as printed April 4, 2005.)

NUGENT

Upon request of Senator Rogers the President ordered the roll of the Senate to be called. Roll Call 366: yeas 16, nays 33. Motion failed.

SENATE MOTION  
(Amendment 1120-10)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 84, line 8, after "and" delete "five" and insert "seven".

Page 84, line 9, delete "\$0.03525" and insert "\$0.03725".

Page 84, line 12, delete "six" and insert "nine".

Page 84, line 13, delete "eighty-five" and insert "fifty-one".

Page 84, line 13, delete "\$0.04685" and insert "\$0.04951".

Page 85, line 1, delete "ninety-five hundredths" and insert "nine tenths".

Page 85, line 1, delete "(0.95%)" and insert "(0.9%)".

Page 85, line 24, delete "forty-one" and insert "twelve".

Page 85, line 25, delete "(5.41%)" and insert "(5.12%)".

Page 85, line 27, delete "Seventy-seven" and insert "Seventy-three".

Page 85, line 28, delete "(0.77%)" and insert "(0.73%)".

Page 85, line 31, delete "Eighty-six and eighty-six" and insert "Eighty-seven and fifty-six".

Page 85, line 31, delete "(86.86%)" and insert "(87.56%)".

Page 85, line 34, delete "ninety-six" and insert "fifty-nine".

Page 85, line 34, delete "(6.96%)" and insert "(6.59%)".

Page 209, delete lines 4 through 42.

Page 210, delete lines 1 through 35.  
 Page 266, delete lines 28 through 31.  
 Renumber all SECTIONS consecutively.  
 (Reference is to EHB 1120 as printed April 4, 2005.)

CLARK

Motion prevailed.

SENATE MOTION  
 (Amendment 1120-8)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 9, delete lines 26 through 42.  
 Renumber all SECTIONS consecutively.  
 (Reference is to EHB 1120 as printed April 4, 2005.)

CLARK

Motion prevailed.

SENATE MOTION  
 (Amendment 1120-7)

Madam President: I move that Engrossed House Bill 1120 be amended to read as follows:

Page 59, between lines 3 and 4, begin a new paragraph and insert:

"SECTION 24. IC 6-1.1-20.6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

**Chapter 20.6. Local Homestead Credits**

**Sec. 1.** As used in this chapter, "revenue" includes revenue received by a political subdivision under any law or from any person.

**Sec. 2.** (a) A political subdivision may adopt an ordinance each year to provide for the use of revenue for the purpose of providing a homestead credit the following year to homesteads eligible for the state homestead credit under IC 6-1.1-20.9. An ordinance must be adopted under this section before December 31 for credits to be provided in the following year. The ordinance applies only to the immediately following year.

(b) A homestead credit under this chapter is to be applied to the net property taxes due on the homestead after the application of all other assessed value deductions or property tax deductions and credits that apply to the amount owed under IC 6-1.1.

(c) A homestead credit under this chapter does not reduce the basis for determining the state property tax replacement credit under IC 6-1.1-21 or the state homestead credit under IC 6-1.1-20.9.

**Sec. 3.** An ordinance adopted under this chapter must provide for a homestead credit that is either a uniform:

- (1) percentage of the net property taxes due on the homestead after the application of all other deductions and credits; or
- (2) dollar amount applicable to each homestead.

The ordinance must specify the percentage or the dollar amount.

**Sec. 4.** (a) If an ordinance is adopted under this chapter, the county auditor shall, for the calendar year in which a

homestead credit is authorized under this chapter, retain from the property tax distributions to the political subdivision the amount necessary so that no other civil taxing unit or school corporation in the county suffers a net revenue loss because of the allowance of the homestead credit.

(b) The county auditor shall then distribute the revenue used to offset the homestead credit to the political subdivision. This amount of revenue shall be allocated by the political subdivision as if the money were from property tax collections."

Renumber all SECTIONS consecutively.  
 (Reference is to EHB 1120 as printed April 4, 2005.)

MRVAN

Upon request of Senator Mrvan the President ordered the roll of the Senate to be called. Roll Call 367: yeas 16, nays 32. Motion failed. The bill was ordered engrossed.

**Engrossed House Bill 1230**

Senator Server called up Engrossed House Bill 1230 for second reading. The bill was read a second time by title.

SENATE MOTION  
 (Amendment 1230-1)

Madam President: I move that Engrossed House Bill 1230 be amended to read as follows:

Page 2, line 1, delete "person," and insert "**person**".

Page 2, line 2, delete "other than a person that operates a railroad intermodal facility,".

Page 2, line 20, delete "only for" and insert "**when and only to the extent of**".

Page 2, line 35, delete ", except when and only to the extent that the loss or" and insert ".".

Page 2, delete lines 36 through 38.

(Reference is to EHB 1230 as printed April 1, 2005.)

SERVER

Motion prevailed. The bill was ordered engrossed.

**Engrossed House Bill 1241**

Senator Zakas called up Engrossed House Bill 1241 for second reading. The bill was read a second time by title. There being no amendments, the bill was ordered engrossed.

**Engrossed House Bill 1407**

Senator Lawson called up Engrossed House Bill 1407 for second reading. The bill was read a second time by title.

SENATE MOTION  
 (Amendment 1407-1)

Madam President: I move that Engrossed House Bill 1407 be amended to read as follows:

Page 19, line 2, delete "Except as provided in subsection (d), a" and insert "A".

Page 19, delete lines 6 through 17.

Page 19, line 18, delete "(e)" and insert "**(d)**".

Page 19, line 28, delete "Except as provided".

Page 19, line 29, delete "in subsection (b), a" and insert "A".

Page 19, delete lines 33 through 42.  
 Page 20, delete lines 1 through 3.  
 Page 20, line 4, reset in roman "(b)".  
 Page 20, line 4, delete "(c)".  
 Page 20, line 6, delete "(d)" and insert "(c)".  
 Page 20, line 11, delete "(e)" and insert "(d)".  
 Page 20, line 26, delete "(f)" and insert "(e)".  
 Page 20, line 30, delete "(g)" and insert "(f)".  
 Page 22, line 36, delete "This subsection does not apply to the marketing of a".  
 Page 22, delete line 37.  
 Page 22, line 38, delete "of this chapter".  
 Page 23, line 36, delete "Except as provided in subsection (e), an" and insert "An".  
 Page 23, delete lines 40 through 42.  
 Page 24, delete lines 1 through 9.  
 Page 24, line 10, delete "(f)" and insert "(e)".  
 Page 24, line 20, delete "Except as provided".  
 Page 24, line 21, delete "in subsection (b), a" and insert "A".  
 Page 24, delete lines 25 through 37.  
 Page 24, line 38, reset in roman "(b)".  
 Page 24, line 38, delete "(c)".  
 Page 24, lines 40, delete "(d)" and insert "(c)".  
 Page 25, line 3, delete "(e)" and insert "(d)".  
 Page 25, line 17, delete "(f)" and insert "(e)".  
 Page 25, line 21, delete "(g)" and insert "(f)".  
 Page 27, line 31, delete "This subsection does not apply to the marketing of a".  
 Page 27, delete line 32.  
 Page 27, line 33, delete "this chapter".  
 (Reference is to EHB 1407 as printed March 30, 2005.)

LAWSON

Motion prevailed. The bill was ordered engrossed.

## ENGROSSED HOUSE BILLS ON THIRD READING

### Engrossed House Bill 1056

Senator Weatherwax called up Engrossed House Bill 1056 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning health.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 368: yeas 47, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

6:17 p.m.

The Chair declared a recess until the fall of the gavel.

### Recess

The Senate reconvened at 6:47 p.m., with Senator Garton in the Chair.

## MOTIONS TO DISSENT FROM HOUSE AMENDMENTS

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 106 and that a conference committee be appointed to confer with a like committee of the House.

LAWSON

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 341 and that a conference committee be appointed to confer with a like committee of the House.

LAWSON

Motion prevailed.

### SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 171 and that a conference committee be appointed to confer with a like committee of the House.

LAWSON

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senator Mishler be added as coauthor of Senate Concurrent Resolution 54.

HEINOLD

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senators Kenley and Meeks be added as coauthors of Senate Resolution 24.

KRUSE

Motion prevailed.

### SENATE MOTION

Madam President: I move that Senator Miller be added as cosponsor of Engrossed House Bill 1217.

CLARK

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Zakas be added as coauthor of Engrossed Senate Bill 230.

LUBBERS

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Zakas be added as cosponsor of Engrossed House Bill 1822.

LANANE

Motion prevailed.

**REPORTS FROM COMMITTEES**

COMMITTEE REPORT

Madam President: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedure, to which was referred Engrossed House Bill 1398 because it conflicts with HEA 1003-2005 and HEA 1288-2005 without properly recognizing the existence of HEA 1003-2005 and HEA 1288-2005, has had EHB 1398 under consideration and begs leave to report back to the Senate with the recommendation that EHB 1398 be corrected as follows:

Page 10, delete lines 23 through 42.

Delete pages 11 through 12.

Page 13, delete lines 1 through 26.

Page 24, delete lines 19 through 42.

Page 31, delete lines 11 through 42.

Page 32, delete lines 1 through 30.

Page 73, delete lines 11 through 22.

Page 77, delete lines 18 through 42.

Delete page 78.

Page 79, delete lines 1 through 40.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1398 as reprinted March 22, 2005.)

GARTON, Chair  
R. YOUNG, R.M.M.  
LANDSKE

Report adopted.

**MESSAGE FROM THE PRESIDENT  
OF THE SENATE**

Members of the Senate: I have on the 6th day of April, 2005, signed Senate Enrolled Acts: 12, 44, 76, 98, 101, 193, 225, 265, 267, 453, 465, 484, and 572.

REBECCA S. SKILLMAN  
Lieutenant Governor

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bill 525 and the same is herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 536, 539, 557, 564, 566, 571, 591, 602, 607, 611, 612, and SJR 10 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed Engrossed Senate Bills 503, 505, and 527 with amendments and the same are herewith returned to the Senate for concurrence.

M. CAROLINE SPOTTS  
Principal Clerk of the House

MESSAGE FROM THE HOUSE

Madam President: I am directed by the House to inform the Senate that the House has passed, without amendments, Engrossed Senate Bills 603 and 620 and the same are herewith returned to the Senate.

M. CAROLINE SPOTTS  
Principal Clerk of the House

**ENGROSSED HOUSE BILLS  
ON THIRD READING**

**Engrossed House Bill 1075**

Senator Miller called up Engrossed House Bill 1075 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 369: yeas 41, nays 8. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

**Engrossed House Bill 1098**

Senator Dillon called up Engrossed House Bill 1098 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 370: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed

the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1265**

Senator Dillon called up Engrossed House Bill 1265 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 371: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1325**

Senator Server called up Engrossed House Bill 1325 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning human services.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 372: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1329**

Senator Server called up Engrossed House Bill 1329 for third reading:

A BILL FOR AN ACT concerning state offices and administration.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 373: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

#### **Engrossed House Bill 1375**

Senator Paul called up Engrossed House Bill 1375 for third reading:

A BILL FOR AN ACT to amend the Indiana Code concerning insurance.

The bill was read a third time by sections and placed upon its passage. The question was, Shall the bill pass?

Roll Call 374: yeas 49, nays 0. The bill was declared passed. The question was, Shall the title of the bill remain the title of the act? There being no objection, it was so ordered. The Chair instructed the Secretary to inform the House of the passage of the bill.

### **MOTIONS TO CONCUR IN HOUSE AMENDMENTS**

#### **SENATE MOTION**

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 14.

LAWSON

Roll Call 375: yeas 48, nays 1. Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 32.

ZAKAS

Roll Call 376: yeas 48, nays 1. Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that the Senate do concur with the House amendments to Engrossed Senate Bill 56.

WYSS

Roll Call 377: yeas 48, nays 1. Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that Engrossed House Bill 1113, which was ordered to engrossment April 6, 2005, be returned to second reading for purposes of amendment.

LAWSON

Motion prevailed.

### **MOTIONS TO DISSENT FROM HOUSE AMENDMENTS**

#### **SENATE MOTION**

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 602 and that a conference committee be appointed to confer with a like committee of the House.

ROGERS

Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 363 and that a conference committee be appointed to confer with a like committee of the House.

BRODEN

Motion prevailed.

#### **SENATE MOTION**

Madam President: I move that Senator Jackman be added as coauthor of Engrossed Senate Bill 32.

ZAKAS

Motion prevailed.



SENATE MOTION

Madam President: I move that Senator Kruse be added as cosponsor of Engrossed House Bill 1265.

DILLON

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Sipes be added as second author of Engrossed Senate Bill 591.

MILLER

Motion prevailed.

**MOTIONS TO DISSENT  
FROM HOUSE AMENDMENTS**

SENATE MOTION

Madam President: I move that the Senate do not concur with the House Amendments to Engrossed Senate Bill 591 and that a conference committee be appointed to confer with a like committee of the House.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move that Senator Howard be added as cosponsor of Engrossed House Bill 1075.

MILLER

Motion prevailed.

SENATE MOTION

Madam President: I move we adjourn until 1:30 p.m., Thursday, April 7, 2005.

LONG

Motion prevailed.

The Senate adjourned at 7:45 p.m.

MARY C. MENDEL  
Secretary of the Senate

REBECCA S. SKILLMAN  
President of the Senate